

JAMES ATTRIDGE [SBN NO. 124003]
Business Trial Lawyer
The Fox Plaza, Suite 1204
1390 Market Street
San Francisco, CA 94102
Telephone: (415) 552-3088

Attorney for Plaintiff
ONEBEACON INSURANCE COMPANY

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

ONEBEACON INSURANCE COMPANY,

Plaintiff(s),

v.

HAAS INDUSTRIES, INC.,

Defendant(s).

Case No: C-07-3540 BZ (MEJ)

**PLAINTIFF'S NOTICE OF MOTION AND
MOTION FOR SUMMARY JUDGMENT
OR, IN THE ALTERNATIVE, FOR
PARTIAL SUMMARY JUDGMENT
[FRCP 56(a)(b)]**

Date: April 2, 2008
Time: 10:00 a.m.
Courtroom: Courtroom G

TO DEFENDANT HAAS INDUSTRIES, INC. AND TO GEOFFREY W. GILL, ITS
ATTORNEY OF RECORD:

NOTICE IS HEREBY GIVEN that on April 2, 2008, at 10:00 a.m. in Courtroom G of the
above-entitled Court, located at 450 Golden Gate Avenue, San Francisco, California, plaintiff
ONEBEACON Insurance Company will and hereby does move the Court for summary judgment
or, in the alternative, for partial summary judgment on the ground that there is no genuine issue
of material fact and that the moving party is entitled to judgment as a matter of law for the reason
that:

(1) Plaintiff has established a *prima facie* case under the Carmack amendment to the
Interstate Commerce Act in that its insured was the owner of freight tendered to the defendant
for transportation in good order and condition, that a portion of that freight was never delivered,

1 and that the value of the freight exceeded the sum of \$104,617.00, the rights to which the
2 plaintiff is entitled to recover in subrogation. 49 U.S.C. 14706(a).

3 In the alternative, plaintiff moves for partial summary judgment on the ground that there
4 is no genuine issue of material fact that and that the plaintiff is entitled to summary adjudication
5 in its favor of the defendants' sixteenth affirmative defense that its liability is limited for the
6 reason that defendant failed to satisfy the requirements of 49 U.S.C. 14706(c)(1) and *New York,*
7 *New Haven & Hartford R.R. v. Nothnagle*, 346 U.S. 128, 73 S.Ct. 986, 97 L.Ed. 1500 (1953)

8 This motion is based upon this Notice of Motion and Motion, the accompanying
9 Memorandum of Points and Authorities, the declarations of James Attridge, Gregory Coolidge
10 and John Turk, all pleadings and papers on files in this action, and upon such other matters as
11 may be presented to the Court at the time of the hearing.

12 Respectfully submitted

13 DATED: February 27, 2008

JAMES ATTRIDGE

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16 By: /s/ James Attridge
17 JAMES ATTRIDGE
18 Attorney for Plaintiff
19 ONEBEACON INSURANCE COMPANY
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